INTRODUCTORY REMARKS

Over 10 years ago, the Court of Queen's Bench introduced Queen's Bench Rule 20A, which was designed to establish a simplified trial process for civil matters where the amount in issue was less than $50,000. One of its goals was to create a streamlined process that would encourage the settlement of those cases that should be settled and permit the adjudication of the remaining cases at a reasonable cost. While the procedure has been used extensively for the last number of years there has been an indication that it may not have altered the cost of litigation or resulted in trials occurring as expeditiously as was anticipated when the rule was introduced.

In recent years, there have been very few civil trials in Manitoba where the amount at issue has been less than $100,000.00. Comments from counsel and litigants during pre-trials and mediations suggest certain claims or defences are not proceeding to trial because parties cannot afford the cost of the trial. They often point to the pre-trial process as being lengthy and cumbersome with the result that they are driven to settle their cases regardless of merit, the cost of the pre-trial process being a major factor.

As a result, the Court of Queen's Bench has struck a committee chaired by Justices Beard and Scurfield and assisted by two members of the Bar, Mr. Shane Perlmutter and Ms Shauna McCarthy, to review the Rule 20A process. The committee has come forward with proposed revisions to

the process and to the rule. These changes are being circulated for comments by the profession.

The proposed revisions to Queen's Bench Rule 20A are intended to address the problems raised above. They are based on the concept of proportionality, with the object being to institute a process that will facilitate the "expeditious and less expensive determinations of actions." It is proposed to adopt pre-trial procedures that are proportional in cost to the amount at issue in the action. The changes are intended to make it possible for litigants to have their modest claims adjudicated by the Court quickly and at reasonable cost. The existing rule contemplates that matters would be set down for trial within 180 days of the date of the first case conference. While this is not occurring under the current rules, the hope is to move closer to that goal with these new rules.

It is anticipated that such changes will enhance access to justice and diminish the negative impact on the legal system caused by the inability of parties to have their matters adjudicated in a financially equitable manner. As Chief Justice Winkler of Ontario noted in a recent article entitled "The Vanishing Point":

> "The collapse of the civil trial process has gradually led to the vanishing trial lawyer. It has also restricted the development of the common law. An experienced trial bar is an important part of a healthy judicial system and a prominent feature of our working democracy, and it is our goal to bring in rules that support a healthy judicial system."

Members of the committee propose to have meetings with interested members of the bar to discuss these changes. It would be helpful if anyone having some comments were to direct them to Justices Beard or Scurfield at:

Court of Queen's Bench
Room 226 – 408 York Avenue
Winnipeg MB R3C 0P9

by June 30th, 2009. A meeting with members of the profession through the auspices of the Manitoba Bar Association has been set for Monday, June 22nd, 2009 at noon in the Main Floor Conference Room, 363 Broadway Avenue, Winnipeg.

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(original signed by)
Chief Justice Marc Monnin
Court of Queen's Bench